

**STANDARD APPLICATION**  
**Harford County**  
**Board of Appeals**  
 Bel Air, Maryland 21014

Case No. 5488  
 Date Filed 4/11/05  
 Hearing \_\_\_\_\_ Date \_\_\_\_\_  
 Receipt \$ 400

*Shaded Areas for Office Use Only*

**Type of Application**

**Nature of Request and Section(s) of Code**

- ☐ Administrative Decision/Interpretation  
☐ Special Exception  
☐ Use Variance  
☐ Change/Extension of Non-Conforming Use  
☐ Minor Area Variance  
☐ Area Variance  
☐ Variance from Requirements of the Code  
☐ Zoning Map/Drafting Correction  
☒ Modification of Special Exception

CASE 5488 MAP 18 TYPE Modification of Special Exception

ELECTION DISTRICT 05 LOCATION 2852 Dublin Rd.; 2851 Dublin Rd. and  
2824 Dublin Rd., Street, MD 21154

BY David & Janet McMillan, 2852 Dublin Road, Street, MD 21154

Lois T. Mingo, 2824, Dublin Road, Street, MD 21154

Appealed because a modification of a special exception for motor vehicle repair shop  
approved in Board of Appeals Case No. 3693 and No. 4974 pursuant to Sec. 267-52B  
and C of the Harford County Code modifying the approved site plan and enlarging the  
existing building requires approval by the Board.

*NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.*

**Applicant/Owner (please print or type)**

Name David McMillan; Janet McMillan Phone Number call attorney

Address 2852 Dublin Road Street MD 21154  
Street Number Street City State Zip Code

Co-Applicant Lois T. Mingo Phone Number call attorney

Address 2824 Dublin Road Street MD 21154  
Street Number Street City State Zip Code

Contract Purchaser N/A Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
Street Number Street City State Zip Code

Attorney/Representative John J. Gessner, Esquire Phone Number 410-893-7500

Address 11 S. Main Street Bel Air MD 21014  
Street Number Street City State Zip Code

Rev. 12/02

## Land Description

Address and Location of Property 2851 Dublin Road, Street, MD 21154; 2824 Dublin Road,  
Street, MD 21154

Subdivision \_\_\_\_\_ Lot Number \_\_\_\_\_

Acreage/Lot Size P.162 -- 3.914 + Election District 5 Zoning AG  
P.65 -- 51.3 +

Tax Map No. 18 Grid No. 4E Parcel 162; 65 Water/Sewer: Private X Public \_\_\_\_\_

List ALL structures on property and current use: P.162--single family detached dwelling; 2 shop buildings,  
sheds; P.65--single family detached dwelling

Estimated time required to present case: 15 minutes

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes \_\_\_\_\_ No X

If so, what is the Critical Area Land Use designations: \_\_\_\_\_

Is this request the result of a zoning enforcement investigation? Yes \_\_\_\_\_ No X

Is this request within one (1) miles of any incorporated town limits? Yes \_\_\_\_\_ No X

## Request

See attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Justification

See attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)*

**ATTACHMENT TO APPLICATION OF DAVID MCMILLAN, JANET  
MCMILLAN AND LOIS T. MINGO**

**REQUEST:**

1. Modification of a Special Exception for Motor Vehicle Repair Shop approved in Board of Appeals Case No. 3693 and as modified in Case No. 4974 pursuant to Section 267-52 (B) and (C) of the Harford County Zoning Code ("Code") as shown on the attached site plan.

**JUSTIFICATION:**

David McMillan, one of the applicants, has conducted a motor vehicle repair shop from the subject property since originally approved in Case No. 3693 ("Original Approval") without impact to adjoining properties. Since the Original Approval was granted, the Board of Appeals approved the modification of the site plan approved in the Original Approval in Case No. 4947 to construct a shop building. The Applicants now wish to further modify the approved site plan by providing a second entrance, constructing a 32 foot by 32 foot addition to the shop building to be used for offices and a 38 foot by 36 foot addition to the shop building to be used for vehicle repairs, relocating parking areas and relocating other accessory structures as shown on the attached site plan. Through inadvertence, the shop building was constructed with a side yard setback of seventeen (17) feet instead of the required forty (40) feet. In order to cure this zoning violation, Mrs. Mingo, the adjoining property owner and Mr. and Mrs. McMillan have agreed to exchange parcels of land to reconfigure their parcels so that the required forty (40) foot side yard setback can be maintained for the shop building as shown on the attached site plan. Modifying the site plan as proposed will cause no adverse impact to adjoining property owners.



**DAVID R. CRAIG**  
HARFORD COUNTY EXECUTIVE



**JOHN J. O'NEILL, JR.**  
DIRECTOR OF ADMINISTRATION

**J. STEVEN KAH-ZIEGLER**  
DIRECTOR OF PLANNING AND ZONING

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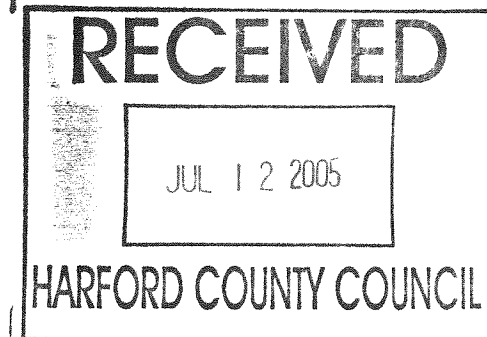
**HARFORD COUNTY GOVERNMENT**

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July 12, 2005

**STAFF REPORT**

**BOARD OF APPEALS CASE NO. 5488**



APPLICANT/OWNER: David and Janet McMillan  
2852 Dublin Road, Street, Maryland 21154

Co-APPLICANT: Lois T. Mingo  
2824 Dublin Road, Street, Maryland 21154

CONTRACT PURCHASER: David and Janet McMillan  
2852 Dublin Road, Street, Maryland 21154

REPRESENTATIVE: John J. Gessner, Esquire  
11 South Main Street, Bel Air, Maryland 21014

LOCATION: 2824 and 2852 Dublin Road  
Tax Map: 18 / Grid: 4E / Parcel: 162; 65  
Election District: Five (5)

ACREAGE: Parcel 162 – 3.914 acres  
Parcel 65 – 51.3 acres

ZONING: AG/Agricultural

DATE FILED: April 11, 2005

HEARING DATE: July 27, 2005

**APPLICANT'S REQUEST and JUSTIFICATION:**

See ATTACHMENT 1.

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Board of Appeals Case Number 5488

David and Janet McMillan

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### **CODE REQUIREMENTS:**

The Applicants are seeking a modification of a Special Exception for motor vehicle repair shop approved in Board of Appeals Case No 3693 and 4974 pursuant to Section 267-52B and C of the Harford County Code, modifying the approved site plan and enlarging the existing building requires approval by the Board of Appeals.

Sections 267-52 B and C of the Harford County Code reads:

- B. A special exception grant or approval shall be limited to the final site plan approved by the Board. Any substantial modification to the approved site plan shall require further Board approval.*
- C. Extension of any use or activity permitted as a special exception shall require further Board approval.*

### **LAND USE and ZONING ANALYSIS:**

#### Land Use – Master Plan:

The subject property is located in the northeast area of the County, west of the Rural Village of Dublin. It is situated on the north side of Dublin Road (MD Route 440), east of Wilson Road. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The predominant land use designation in this area of the County is Agricultural. The property is located in an area of the County that contains three Rural Village Centers; Dublin (just to the east of the subject property), Darlington and Whiteford. The Natural Features Map reflects Parks, Deer Creek Scenic River District, Sensitive Species Project Review Areas, Agricultural Preservation Easements and Districts and Stream Systems. The subject property is designated as Agricultural which is defined by the 2004 Master Plan as:

**Agricultural** – Areas where agriculture is the primary land use, but where development rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 4 and 5).

#### Land Use – Existing:

The predominant land use in this area is Agriculture which includes cropland, pastureland, and large areas of dense woodland. The topography of the area ranges from rolling to steep

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especially near the stream valleys. There are no major residential developments in the area only small subdivisions and scattered residences. Enclosed with the report is a copy of the topography map and the aerial photograph (Attachments 6 and 7).

The subject property is a long rectangular shaped parcel located on the north side of Dublin Road (MD Route 440) and is approximately 3.914 acres in size. The topography is level to gently sloping. It is bordered by farm fields on the east and west sides and woods to the rear. The applicants have negotiated with the adjoining property owner (Mrs. Lois T. Mingo) to add a strip of land to the west side of the property in exchange for a portion of the rear of the Applicant's property. The additional land will allow for the expansion and the existing building to conform to the required setbacks and provide a better location for the entrance to the property. After the embankment has been cut back, the new entrance will provide good sight distance in both directions from the property.

Existing improvements consist of a brick and frame dwelling located to the front and south side of the property, a block one-story building that contains a small office, shop and paint booths directly to the rear of the dwelling. To the left and rear is a new metal shop building that was the subject of Case 4974. To the rear of this building is a storage area for vehicles awaiting repair. There are existing trees planted for screening along the original western property line. The Applicant has advised the Planning staff that he would move the existing trees and add to this screening along the new property line, if the request is approved. The applicant has also stated that he will establish a row of trees across the front of the property (see Attachment 8), that will screen the use from the road. This Department would suggest that the trees be Leyland Cypress and a minimum of 3 to 5 foot in height at planting and no less than 8-foot on centers. Enclosed with the report are site photographs along with an enlargement of the aerial photograph (Attachments 9 and 10).

### Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. The primary zoning classification is AG/Agricultural, including the subject property. There are a few small areas of RR/Rural Residential representing existing developments. Around the Maryland Talc company to the east is an area of GI/General Industrial zoning (the industrial zoning has existed since zoning began in 1957). Enclosed with the report is a copy of the Zoning Map (Attachment 11).

### Zoning History:

The Applicant operates a motor vehicle paint and repair business at the subject property behind the existing residence. This use was granted approval in Board of Appeals Case No. 3693 in February of 1989. This case was amended and the use expanded in Case No. 4974 in January of 2000. The Applicants are requesting a small expansion of the existing building and relocation of the entrance and new parking area. Enclosed with the report are copies of the Board Appeals

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David and Janet McMillan

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decisions 3693 and 4974 (Attachments 12 and 13). Also enclosed is a copy of the site plan for Case 4974 (Attachment 14).

### **SUMMARY:**

The Applicants are seeking a modification of a Special Exception for motor vehicle repair shop approved in Board of Appeals Case No 3693 and 4974 pursuant to Section 267-52B and C of the Harford County Code, modifying the approved site plan and enlarging the existing building requires approval by the Board of Appeals.

Sections 267-52 B and C:

- B. A special exception grant or approval shall be limited to the final site plan approved by the Board. Any substantial modification to the approved site plan shall require further Board approval.*
- C. Extension of any use or activity permitted as a special exception shall required further Board approval.*

The Applicants have operated a motor vehicle repair shop at the subject location since 1989 pursuant to Board of Appeals Case 3693 with no impacts to the neighborhood. In 1999 the Applicants modified their original approval in Board of Appeals Case 4974 to construct a new shop building. The Applicant is now requesting to further modify his approval to add a 32 by 32-foot addition to be used as offices. They also plan to add a 38 by 36-foot addition to the shop itself to be used for vehicle repair. The Applicant is required from time to time to repair large vehicles such as school buses and trucks. Additional land is to be added to the western side of the property which will allow the Applicant to relocate the entrance for better sight distance, and make it safer for larger vehicles. The added land also increases the side yard setback between the building and side property line to 70-feet which exceeds Code requirements and allows ample room to fully screen the use from the adjoining properties and the road. Additional screening can be planted to the left or west of the Applicant's dwelling across the front of the property. The proposed additions will allow the Applicant to remove several of the existing sheds on the property. The proposed modification to the facility will not create any additional impacts to the neighborhood.

### **RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the request be approved subject to the following conditions:

1. The Applicant shall obtain all necessary permits and approvals for the construction of the additions.
2. The Applicant shall obtain any necessary access permits from the State Highway Administration for the new entrance.
3. All of the conditions of approval in Case #4974 shall remain in effect.



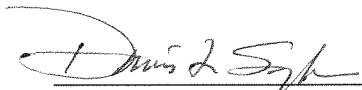
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David and Janet McMillan

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4. The applicants shall combine the area conveyed from Mongo with their property prior to issuance of any permits for the expansion. A revised preliminary plan and final plat must be submitted to the Department of Planning and Zoning for review and approval.



Dennis J. Sigler, Coordinator  
Zoning & Board of Appeals Review

DJS/ASM/jf



Anthony S. McClune, AICP  
Deputy Director, Planning and Zoning